

United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE ALIGN TECHNOLOGY, INC.
DERIVATIVE LITIGATION

Case No. 19-CV-00202-LHK

ORDER STAYING CASE

Re: Dkt. No. 30

On February 26, 2019, the Court entered an Order consolidating three actions for all purposes under the instant case No. 5:19-CV-00202-LHK (the “Derivative Litigation”). ECF No. 29. The Court directed the parties to explain why the Derivative Litigation should not be stayed pending the resolution of the securities class action (No. 5:13-CV-6720-LHK and 3:18-CV-7469-LHK) (the “Securities Litigation”). *See id.*

On March 28, 2019, the parties filed a joint report regarding a stay of the Derivative Litigation. ECF No. 30. Both parties agree to a stay of the instant Derivative Litigation; however, the parties dispute the duration and terms of the stay. *See id.* In particular, Plaintiffs argue that the stay should only be in place pending any motion to dismiss ruling in the Securities Litigation. *Id.* at 1–2. Plaintiffs also request that: (1) Plaintiffs be given any written discovery produced in the

Securities Litigation; and that (2) Plaintiffs be invited to participate in any mediation intended to resolve the Securities Litigation during the pendency of the stay. *Id.* at 1. Plaintiffs argue that “[w]ithout such terms, Plaintiffs will be unduly prejudiced.” *Id.* Defendants, by contrast, argue that the Derivative Litigation should be stayed until the entry of a final judgment in the Securities Litigation. *Id.* at 4–6.

The Court hereby STAYS the instant Derivative Litigation pending resolution of the related Securities Litigation. *See, e.g., In re RH Shareholder Derivative Litigation*, No. 18-cv-2452-YGR, 2019 WL 580668, at *3 (N.D. Cal. Jan. 23, 2019) (finding that a derivative action warrants a stay when “the securities class action has not yet been resolved” and plaintiffs in the derivative action seek relief contingent upon resolution thereof). The Court finds that Plaintiffs will not be prejudiced by a stay for the duration of the Securities Litigation. *See id.* (finding a stay poses minimal risk of damage to plaintiffs in derivative action because the securities action overlaps and because the parties in the securities action must preserve all evidence). Moreover, Defendants would experience hardship if the Court were to decline to stay the Derivative Litigation pending the Securities Litigation because proceeding with the Derivative Litigation would divert litigation resources away from Defendants’ defense of the Securities Litigation. *See id.* at *4 (“The concerns of hardship and equity to the moving party are especially relevant in shareholder derivative cases when a securities class action suit is proceeding on the same issues.” (citation omitted)). Finally, given the significant overlap between the Derivative Litigation and the Securities Litigation, the Court finds that issuing a stay in the instant Derivative Litigation will simplify “issues, proof, and questions of law” and will therefore help preserve judicial resources and promote the orderly course of justice. *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005).

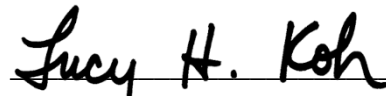
The Court denies Plaintiffs’ request for discovery and an invitation to participate in any Securities Litigation mediation during the pendency of the stay. Plaintiffs may make such requests to the parties in the Securities Litigation.

The Clerk shall close the file. This is an administrative procedure that does not affect the

rights of the parties. The parties shall file a joint status update within 7 days of resolution of the Securities Litigation.

IT IS SO ORDERED.

Dated: April 10, 2019

A handwritten signature in black ink that reads "Lucy H. Koh". The signature is written in a cursive, flowing style. It is positioned above a horizontal line that extends to the right.

LUCY H. KOH
United States District Judge

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Northern District of California